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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

DARRYL AND DEBORAH CHAPMAN :
:
-vs- : Docket No. 12-0218
:
COMMONWEALTH EDISON COMPANY :
:
Complaint as to billing :
charges in Chicago, Illinois :

Chicago, Illinois
January 11, 2013

Met, pursuant to adjournment, at 11:00 o'clock a.m.

BEFORE:

Katina Baker, Administrative Law Judge

APPEARANCES:

MR. DARRYL CHAPMAN
1060 West Hollywood
Chicago, Illinois
MR. MARK L. GOLDSTEIN
LAW OFFICES OF MARK L. GOLDSTEIN
3019 Province Circle
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MS. ERIN BUECHLER
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I N D E X

WITNESSES:	Direct	Cross	Redirect	Recross
John O'Brien	7	14		
Alexis Bullard	22	33		

E X H I B I T S

NUMBER	MARKED FOR ID	IN EVIDENCE
DX-1	11	14
DX-2	21	31
DX-3	21	31

1 JUDGE BAKER: Pursuant to the authority of
2 the Illinois Commerce Commission I now call Docket
3 120218, Darryl and Debra Chapman versus Commonwealth
4 Edison. This is a complaint as to billing charges in
5 Chicago, Illinois.

6 Could the parties please state their name,
7 for the record, beginning with counsel.

8 MR. GOLDSTEIN: Yes. For Commonwealth
9 Edison Company, Mark L. Goldstein, 3019 Province Circle,
10 Mundelein, Illinois 60060. My telephone number is 847
11 949-1340. With me this morning is Erin Buechler of
12 ComEd as well as are two witnesses, John O'Brien and
13 Alexis Bullard.

14 MR. CHAPMAN: Chapman and Smith family, 1060
15 West Hollywood, 312 656-2239.

16 JUDGE BAKER: I'm first going to ask who's
17 Smith? Because that's a new name that I was --

18 MR. CHAPMAN: It was part of this request,
19 also the owner of the --

20 JUDGE BAKER: Oh, okay. You're a renter,
21 okay.

22 MR. CHAPMAN: No. It's a family-owned unit

1 and we have family there but --

2 JUDGE BAKER: Is your name on title?

3 MR. CHAPMAN: Correct.

4 JUDGE BAKER: And so is Mr. or Mrs. Smith's
5 name is on title?

6 MR. CHAPMAN: There you go.

7 JUDGE BAKER: Okay. Where we stand right
8 now, we were set today to proceed with an evidentiary
9 hearing. Yesterday counsel presented me with something
10 that he received from the complainant Mr. Chapman which
11 has no docket number and it's my understanding that
12 Mr. Chapman and complainant did send this to
13 Springfield. However, it's merely marked Darryl and
14 Debra Chapman, Richard Smith, owner, versus Commonwealth
15 Edison. There's no docket number referenced. So I
16 never received it because the clerk's office would have
17 no idea, now way of knowing who this is pertaining to.
18 It reads as follow. Notice of continuance first data
19 request. A notice of request, petitioner has not
20 received documents requested from parties. Please send
21 all documents to and there's a PO box number.

22 As I've already explained to the

1 complainant, I did not receive this. I looked at it
2 when counsel received it. Counsel received it two days
3 ago. Yesterday, in an attempt to accommodate you Mr.
4 Chapman, since I did have counsel present we tried to
5 contact you. We were unable to reach you on your home
6 phone, it was disconnected, and then your cell phone we
7 were unable to leave you a message. So that's why we're
8 here today. Counsel has two witnesses and he's ready to
9 go and it's my understanding you wish to proceed --

10 MR. GOLDSTEIN: That's correct, Judge.

11 JUDGE BAKER: Okay. The issue then becomes
12 is that we have the complainant who is not prepared, who
13 is -- he's not prepared to go forward today.

14 I'll note for the record, too, that you have
15 no witnesses present today.

16 MR. CHAPMAN: They will be present at the
17 next one.

18 JUDGE BAKER: Okay. I'm just getting all
19 this on the record so it's understood exactly where we
20 are.

21 What we're going to do, then, we are going
22 to break this up into two parts in an effort to

1 accommodate both parties. I understand that you have
2 your witnesses here ready to go. Counsel for the
3 company is going to present the testimony of his two
4 witnesses, the complainant will have an opportunity to
5 cross-examine them. Then we are going to continue this
6 matter to an agreed date relatively soon and the
7 complainant will have an opportunity to present his
8 case, to present any witnesses. In the meantime -- in
9 the duration, the period of time between now and that
10 date which is yet to be determined, the complainant
11 needs to request from counsel specifically what
12 documents he wants from counsel. So any documentation,
13 like I said at the last status hearing, that you want
14 from counsel, from the company, you need to request in
15 writing -- we're going to get that, though, on the
16 record what you're looking for from counsel. Having
17 said that, you cannot wait and do that two days prior
18 to the hearing. Two days prior to the hearing, it's
19 not -- you know, it's got to be a reasonable amount of
20 time. I actually think we should even today put on the
21 record a date so that we're not in the same position at
22 the next date.

1 Counsel has already sent a data request to
2 the complainant, is that correct?

3 MR. GOLDSTEIN: That's correct, Judge.

4 JUDGE BAKER: The complainant has
5 acknowledged that he received it, he has not responded
6 though. So we're going to get dates by which everybody
7 has got to respond going forward so that there's just no
8 -- there's going to be no issues next time.

9 Okay. Are you ready, counsel?

10 MR. GOLDSTEIN: Yes, I am, Judge.

11 JUDGE BAKER: Would you like to swear in
12 your witness?

13 MR. GOLDSTEIN: Yes, please.

14 JUDGE BAKER: Do you swear or affirm to tell
15 the whole truth and nothing but the truth?

16 THE WITNESS: Yes, ma'am, I do.

17 DIRECT EXAMINATION

18 BY MR. GOLDSTEIN:

19 Q. Please state your name and spell your last name,
20 for the record?

21 A. It's John O'Brian. O-b-r-i-e-n.

22 Q. You are employed by ComEd, is that correct?

1 A. Yes, I am.

2 Q. What is your current job title with ComEd?

3 A. It's a senior energy technician.

4 Q. How long have you been a senior energy technician
5 with ComEd?

6 A. A little over two years.

7 Q. Prior to that time, what other positions have you
8 held with ComEd?

9 A. I was an energy technician for a little
10 under -- a little over two years. Prior to that, I
11 spent roughly 16 years as a meter reader.

12 Q. Could you describe your duties and
13 responsibilities as a senior energy tech?

14 A. New business work, install meters, wiring up CT
15 cabinets, you know, commercial type property, CT
16 cabinets, fit-ins. Turning on power, turning off power,
17 replacing damaged meters.

18 Q. Do you also test meters?

19 A. And I also test meters. Yes, I do.

20 Q. As part of your position with ComEd, you have
21 access to the company's books and records?

22 A. Yes, I do.

1 Q. Are you familiar with Mr. Chapman's account at
2 1060 West Hollywood in Chicago?

3 A. Yes.

4 Q. In fact, you've been out to the property, have
5 you not?

6 A. Yes.

7 Q. When were you out to the property?

8 A. The exact date would be 6-3 of last year.

9 Q. August 6th?

10 A. August 6th.

11 Q. Of 2012?

12 MR. CHAPMAN: Is it June or August?

13 THE WITNESS: I'm sorry. It's August 3rd,
14 2012.

15 BY MR. GOLDSTEIN:

16 Q. Could you describe, generally, what happened when
17 you went out to the property?

18 A. Well, I went out there -- prior to getting out
19 there I tried to contact Mr. Chapman via two different
20 phone numbers. One was disconnected and the other one
21 just wasn't in service. I arrived on the property and I
22 have a habit of bringing the meter reading keys with me

1 just in case they work, so that I can put down in the
2 report whether we have access or not on a regularly
3 monthly basis. I brought those out, was unable to --
4 none of the keys worked. So I went to the front of the
5 building and found the property manager number on there,
6 it was like an 8-4 number out in the building. I called
7 that, spoke with a lady there who gave me the guy who
8 takes care of the place, Manny, his number, and then I
9 called him and that's how I gained access to the
10 building. Because when I arrived there, another
11 thing -- one of the first thing I did actually, prior to
12 trying the keys, was I was looking at the bell system
13 and the scroll, a scroll thing to look for the
14 individual's names. His name was not found on it so I
15 had no way to contact him through the intercom system of
16 the building.

17 Q. When you talk about him, you're talking about
18 Mr. Chapman?

19 A. Yes. Mr. Chapman, yes.

20 Q. So you were dispatched out to the property?

21 A. Yes.

22 Q. Ultimately, did you gain access to the area where

1 the electric meters are located?

2 A. Yes, I did.

3 Q. Did you in fact see Mr. Chapman at the property?

4 A. At some point. Yes, I did.

5 Q. Was he present when you tested his meter?

6 A. He was present as I was setting up to test the
7 meter. At some point after that he went back upstairs.

8 Q. Could you describe what you did in order to test
9 Mr. Chapman's meter?

10 A. Well, all the meters are in one room, one hallway
11 in the back. The ring fittings and to test it you have
12 to -- it's -- once you remove the seal, because it was a
13 sealed meter, once you remove that meter it kills power
14 to the unit. And I have -- it's called the RM 17. I
15 put that test kit, it's about that big, into the fit-in,
16 sealed it up with a lock and ring and then inserted the
17 meter and locked that into the device to test it.

18 Q. You tested it at both high and low voltage, did
19 you not?

20 A. Yes, I did.

21 Q. Let me show you what's been marked as ComEd

22 Exhibit No. 1, it's entitled individual order completion

1 data report?

2 JUDGE BAKER: Did Mr. Chapman get a --

3 MR. GOLDSTEIN: Yes, he did.

4 BY MR. GOLDSTEIN:

5 Q. Is this the formal report, Mr. O'Brien, that is
6 made with respect to your visit to the property at 1060
7 West Hollywood and the test of Mr. Chapman's meter?

8 A. Yes. This is what I guess you'd call it the hard
9 copy. Yes.

10 Q. You tested the meter. Did the meter test within
11 the standards of Commonwealth Edison company?

12 A. Yes, it did.

13 Q. Did it also test within the standards of the
14 Illinois Commerce Commission?

15 A. Yes it did, both standards.

16 Q. Did you also check to see if there was any
17 foreign load on the meter?

18 A. Well, what I could do from the meter -- yeah.
19 Well, I was looking to see if there was any tampering
20 with the meter or the fit in itself. So --

21 Q. Did you find any tampering with the fitting or
22 the meter?

1 A. No, none whatsoever.

2 Q. This report that I've handed you, which is
3 Commonwealth Edison's Exhibit 1, is this a business
4 record of Commonwealth Edison kept in the ordinary
5 course of its business?

6 A. Yes.

7 Q. Based on your review of the meter, your
8 experience as the senior energy tech and your other
9 experience as a meter reader and everything else that
10 you've done at the company, is there anything that you
11 can identify as the meter having been tampered with or
12 in any way inaccurate?

13 A. I found nothing whatsoever of tampering or
14 anything out of the ordinary with that meter.

15 Q. Who owns the meter which serves Mr. Chapman?

16 A. The meter is ComEd's property.

17 Q. What about the wiring, who owns that?

18 A. That's the building owner.

19 Q. Does Commonwealth Edison own any of the wiring
20 into the building -- into the meter from the building?

21 A. No. They -- whether it's underground fed or from
22 the pole to the building, the length -- I don't know --

1 physically inside of the building itself, the meter is
2 ComEd's property, everything behind that is customer
3 property.

4 Q. Does ComEd maintain, repair, and replace or
5 otherwise have any responsibility for any of those other
6 kinds of wires attached to the meter?

7 A. No. No, they do not.

8 MR. GOLDSTEIN: I have nothing else of the
9 witness. I would move into evidence ComEd exhibit
10 number one.

11 JUDGE BAKER: Any objection to his exhibit.

12 MR. CHAPMAN: Yes.

13 JUDGE BAKER: What's the --

14 MR. CHAPMAN: The first objection I have is
15 the fact that it's dated for a 12-month time frame. I'm
16 assuming and most of --

17 JUDGE BAKER: Which are you referring to,
18 Exhibit No. 1? We're just talking about Exhibit No. 1
19 right now which is the report that he --

20 MR. CHAPMAN: This one.

21 JUDGE BAKER: Yeah.

22 MR. CHAPMAN: That's fine.

1 JUDGE BAKER: Let the record reflect that
2 the company exhibit, ComEd exhibit number one is entered
3 into the record.

4 You're through with the witness?

5 MR. GOLDSTEIN: Yes.

6 JUDGE BAKER: You've got an opportunity now
7 to cross-examine him, to ask him any questions based on
8 his testimony, the testimony that he just provided, you
9 can ask him any questions regarding that, as well as the
10 report.

11 MR. CHAPMAN: I hadn't had a chance to look
12 at it so I'm hoping it don't come back and bite me.

13 CROSS EXAMINATION

14 BY MR. CHAPMAN:

15 Q. Your last name, sir, you said is Bird?

16 A. No. It's O'Brien.

17 Q. O'Brien. I'm sorry, I got the wrong name.

18 Do you have an accurate of -- the first date
19 that you arrived at the property or would that be
20 August 3rd, 2012?

21 A. August 3rd was the only time I've ever been to
22 that property, to the best of my knowledge, in my entire

1 history with ComEd.

2 Q. How many times have you been at the building as
3 an estimate?

4 A. None.

5 Q. That was the one and only time that you were
6 there?

7 A. Yes.

8 Q. You made mention to the fact that you went to the
9 intercom system first and foremost. I will agree with
10 you it is complicated. But secondly, it does list
11 specifically every unit. You did know which unit you
12 were going to?

13 A. It's 305 is --

14 Q. You could have dialed that into the building?

15 A. I couldn't make heads or tails out of it. I
16 didn't see many names on the listed -- in the intercom
17 system. It was like a green list display.

18 Q. Yeah, it's lit up. It's cute, but ineffective,
19 I'll give you that. But it is specifically for all 58
20 units in the building and if you knew you were going to
21 305, you could have rung 305, correct?

22 MR. GOLDSTEIN: What's the -- I don't

1 understand.

2 JUDGE BAKER: Are you objecting?

3 MR. GOLDSTEIN: I object, Judge. I mean to
4 talk about this is irrelevant.

5 MR. CHAPMAN: Perhaps it is with you but --

6 MR. GOLDSTEIN: Mr. Chapman --

7 JUDGE BAKER: Everybody -- what's your
8 objection, irrelevant?

9 MR. GOLDSTEIN: It's totally irrelevant,
10 Judge. In fact, Mr. O'Brian testified Mr. Chapman was
11 present at some time during the time --

12 JUDGE BAKER: Okay. Where are you going
13 with this.

14 MR. CHAPMAN: Where I'm going with this,
15 first and foremost, if he said he called. I want to
16 know his turnaround time. How come I wasn't sent
17 documentation? Because everything I've had to do with
18 them came through the commerce commission in the form of
19 a letter and even a phone call that I received from the
20 Illinois Commerce Commission was backed up by a specific
21 date and letter.

22 JUDGE BAKER: I'll let you -- just answer

1 his question and then keep it moving. Answer his
2 question though.

3 BY MR. CHAPMAN:

4 Q. Just so we're clear, you arrived at the
5 property --

6 A. Yes.

7 Q. People do, you know, work for a living --

8 A. Yes.

9 Q. And have responsibilities. So if you're showing
10 up unannounced and you'll say, well, I called you, if I
11 have to submit a document --

12 MR. GOLDSTEIN: I'm going to object because
13 this is just colloquy, Judge. Let him ask questions.

14 JUDGE BAKER: You need to ask a question.

15 MR. CHAPMAN: Okay.

16 BY MR. CHAPMAN:

17 Q. Secondly, you mentioned that August 3rd was the
18 first day that you arrived?

19 A. Yes, sir.

20 Q. Which is we can also prove the actual dates of
21 the biggest problem we have with the tampering goes back
22 to September October 2002 --

1 MR. GOLDSTEIN: I'm going to object. He's
2 testifying.

3 JUDGE BAKER: I know, I know. He's not
4 counsel so --

5 MR. GOLDSTEIN: If he wants to testify,
6 let's complete the hearing today.

7 JUDGE BAKER: I'm going to help steer him
8 here. You need to ask questions.

9 MR. CHAPMAN: Okay.

10 JUDGE BAKER: You can't make statements, you
11 need to ask questions. And I know, I understand you're
12 not an attorney so it's not a natural -- perhaps it is a
13 little unnatural so I'm trying to help you here. Ask
14 questions.

15 MR. CHAPMAN: Thank you, thank you.

16 BY MR. CHAPMAN:

17 Q. So August 3rd, 2012 is the day you arrived?

18 A. Yes, sir.

19 MR. CHAPMAN: Should I go on record to say
20 that most of the occurrence of tampering was the year
21 prior to him.

22 JUDGE BAKER: Why don't we try this. You

1 heard what he testified to about, right?

2 MR. CHAPMAN: Correct.

3 JUDGE BAKER: You can ask him any question
4 regarding what he testified to and just keep posing it
5 as a question.

6 MR. CHAPMAN: Pose it as a question.

7 JUDGE BAKER: So whatever you're trying to
8 get to, just keep asking him, as long as it's got to do
9 with what he testified about.

10 MR. CHAPMAN: Okay.

11 BY MR. CHAPMAN:

12 Q. Just so I'm clear. You stated that the wiring is
13 the building owner's responsibility?

14 A. Everything behind the meter, yes, and then
15 everything inside somebody's walls and the outlets and
16 all that. All the equipment down there other than the
17 meters.

18 Q. Did you ever see a meter that was tagged?

19 A. Tagged --

20 MR. GOLDSTEIN: What does that mean?

21 THE WITNESS: What type of tag, sir, what
22 color?

1 BY MR. CHAPMAN:

2 Q. Emergency tag, that it must be serviced within 24
3 hours -- I'm sorry 48 hours to 72 hours?

4 MR. GOLDSTEIN: I'm going to object unless
5 it's --

6 JUDGE BAKER: Overruled. I'm going to let
7 him testify as to what he saw when he was down there.

8 THE WITNESS: I never -- what color is the
9 tag and what does it say specifically, sir?

10 BY MR. CHAPMAN:

11 Q. It's a red tag?

12 A. Red with white lettering I assume?

13 Q. Yeah, and black marking that states what problem
14 has occurred?

15 A. If there's any problems or if there's power loss,
16 to call a certain number or I'm --

17 Q. What I'm asking, do you have any record of that
18 meter being tagged?

19 A. No, sir.

20 Q. The only --

21 A. We use seals to, you know, seal the meter. Once
22 the meter is put in the socket, we put a steel ring or a

1 locking ring on it, whichever, and then we put a brown
2 seal on there which signifies that the person should be
3 on and that the fitting is not tampered with and I did
4 not see any other -- anything other than a brown tag on
5 there and it was sealed.

6 Q. Did you change that meter once you came out?

7 A. No, sir.

8 Q. Yes, you did.

9 MR. GOLDSTEIN: Well --

10 JUDGE BAKER: That's not a question. That's
11 certainly not a question.

12 MR. CHAPMAN: Okay.

13 BY MR. CHAPMAN:

14 Q. But in either case, just so you know, I don't
15 have a problem with you. I'm glad that you were out.
16 The only problem I had was --

17 MR. GOLDSTEIN: I'm going to object. Let
18 him ask questions so we can finish this.

19 JUDGE BAKER: Okay, counsel, okay, counsel.
20 Yet again, let's ask questions, not statements,
21 questions.

22 BY MR. CHAPMAN:

1 Q. We get there and you shut off the power and, you
2 know, but anyway, that's fine. We're done.

3 JUDGE BAKER: Are you through with him?

4 MR. CHAPMAN: Yes.

5 JUDGE BAKER: Your witness is excused.

6 MR. CHAPMAN: Can we recall him at a later
7 date?

8 MR. GOLDSTEIN: No.

9 JUDGE BAKER: No.

10 MR. GOLDSTEIN: This is the reason he's here
11 now.

12 JUDGE BAKER: Okay, so you're excused,
13 Mr. O'Brien.

14 Counsel, you can call your next witness.

15 MR. GOLDSTEIN: Thank you, Judge.

16 JUDGE BAKER: Let's try to move this along.

17 MR. GOLDSTEIN: We call Alexis Bullard.

18 DIRECT EXAMINATION

19 BY MR. GOLDSTEIN:

20 Q. Ms. Bullard, state your name for the record and
21 spell your last name?

22 A. Alexis Bullard. B-u-l-l-a-r-d.

1 Q. What is your current --

2 JUDGE BAKER: Well, let -- I didn't swear in
3 the witness. Can you raise your right hand?

4 (Witness sworn.)

5 JUDGE BAKER: Let the record reflect that
6 the witness has been sworn in.

7 BY MR. GOLDSTEIN:

8 Q. Ms. Bullard, you've already stated your name for
9 the record. Please give me your job title with ComEd?

10 A. Customer relations analyst.

11 Q. How long have you been in your current position?

12 A. Two years.

13 Q. What did you do before then?

14 A. I was a customer services rep for 18 years.

15 Q. You been at the company approximately 20 years?

16 A. Uh-huh.

17 Q. Could you describe your current duties with
18 ComEd?

19 A. I receive bureau complaints, I analyze and
20 resolve them.

21 Q. As part of your job, do you have access to the
22 company's books and records that are kept by the

1 company?

2 A. Yes.

3 Q. This includes any information that relates to the
4 account or the complainant, Mr. Chapman?

5 A. Yes.

6 Q. Have you reviewed that information --

7 A. Yes.

8 Q. -- on his account?

9 A. Yes.

10 Q. You did that in order to familiarize yourself
11 with Mr. Chapman's billing history, and so on and so
12 forth, is that right?

13 A. Correct.

14 Q. Let me turn your attention to something that
15 Mr. Chapman has stated in his complaint, where he
16 alleges that there are inaccurate billings. Could you
17 explain in your review of his accounts --

18 JUDGE BAKER: Is this company Exhibit 2 that
19 you're referring to?

20 MR. GOLDSTEIN: It will be, it will be two
21 and three.

22 JUDGE BAKER: Okay.

1 BY MR. GOLDSTEIN:

2 Q. He's alleged that there are inaccurate billings.

3 Could you explain in your review of the account whether
4 you found any inaccuracies?

5 A. I did not find any -- come across any
6 inaccuracies. I reviewed the meter reading history, we
7 are required to keep two years of history so I can only
8 go back two years. Regarding the meter readings, I went
9 and I reviewed those, compared those against his monthly
10 billing statements and checked to make sure the readings
11 were regular readings which is actual company readings
12 versus an inaccurate reading.

13 Q. Did you find in reviewing Mr. Chapman's account
14 and going through his records, did you find any notes on
15 the account indicating any evidence of tampering or
16 foreign load on his meter?

17 A. No.

18 Q. Let me show you what's been marked as ComEd
19 Exhibit No. 2, it's the meter reading history for Mr.
20 Chapman's meter. Do you have that in front of you?

21 A. Yes.

22 JUDGE BAKER: ComEd Exhibit 2, correct,

1 counsel?

2 MR. GOLDSTEIN: Yes.

3 BY MR. GOLDSTEIN:

4 Q. Can you tell me what is shown on this exhibit?

5 A. This shows the meter reading history for his
6 meter, for Mr. Chapman. The from date is the date of
7 the last meter reading, to is the column where the next
8 reading date. Source would be regular, this is where it
9 tells you if it's an actual company reading or an
10 estimate. For work reading service orders, that's a
11 reading that's taken when a specific work order or
12 request is issued by the customer for a technician to
13 come out. This case it would probably be like a meter
14 test, they do take a reading off the meter when they are
15 in the field. However, the customer's not billed for
16 that reading, it just goes in the reading history. The
17 GS total kilowatts is the read, the physical read that
18 the meter reader keys in off the meter when he's at the
19 premise. GS total usage is the difference. If you
20 subtract a previous reading of 58776 from 59054, the
21 difference is 278 kilowatt hours and that's what the
22 customer is billed with. Then it has status, it just

1 says billed and then his bill account number.

2 Q. In looking at ComEd Exhibit No. 2, would it be
3 fair to say that all of the readings of Mr. Chapman's
4 meter were regular readings?

5 A. Yes.

6 Q. Were the readings progressive in nature?

7 A. Yes.

8 Q. What does that mean when they're progressive in
9 nature?

10 A. It just means that the meter is advancing
11 correctly based on the usage that the customer's using.

12 Q. ComEd Exhibit No. 2 is a business record of
13 ComEd, is it not?

14 A. Yes.

15 Q. And it's kept in the ordinary course of ComEd's
16 business?

17 A. Yes.

18 Q. We'll turn to the final exhibit, ComEd Exhibit
19 number three which is the ComEd account activity
20 statement. Do you have that in front of you?

21 A. Yes.

22 Q. Could you describe generally what this document

1 is?

2 A. It's an account history or account activity
3 statement which goes through and gives the billing
4 period, the payments, the debits, the meter number,
5 reading on the amount of the bill. It also would show
6 any adjustments, if any adjustments was done on the
7 account and it shows, like, a balance forward if the
8 payment -- if the bill is not paid during that billing
9 cycle, it will roll over to the next.

10 Q. The date of this statement is what date?

11 A. It's two years, so it goes -- this is printed up
12 from 1-21-11 through 12-27-12.

13 JUDGE BAKER: Is there service currently at
14 the property?

15 MR. GOLDSTEIN: Yes.

16 JUDGE BAKER: Okay. Just because I'm
17 looking at this. Okay.

18 MR. CHAPMAN: I'm sorry. Could you repeat
19 that date again?

20 THE WITNESS: 1-21-11 and then the second
21 page it ends at 12-27-12.

22 BY MR. GOLDSTEIN:

1 Q. What is the current balance owed on the account
2 of Mr. Chapman?

3 A. As of 12-27-12, the total balance is 2,064.36.

4 JUDGE BAKER: Can you repeat that?

5 THE WITNESS: \$2,064.36.

6 JUDGE BAKER: I see. Okay, I see it on the

7 --

8 THE WITNESS: Under total bill.

9 JUDGE BAKER: Yes.

10 BY MR. GOLDSTEIN:

11 Q. When was the most recent payment made on Mr.
12 Chapman's account?

13 A. The last payment was on 9-12-11 for three
14 fifty-four eighteen.

15 Q. Is there anything else that you would like to
16 point out with respect to ComEd Exhibit No. 3?

17 A. Mr. Chapman entered into a payment agreement, a
18 payment plan on November 7th for his outstanding --

19 Q. Of what year?

20 A. Of 2011, with the -- the balance at the time was
21 \$1014.25.

22 Q. In the complaint that Mr. Chapman filed, he

1 alleges that one of the problems is that he has
2 different billing cycles on his account. Did you see
3 any indication of that from your review of the account?

4 A. No. The normal billing cycle of a meter reading
5 route, his meters are generally read between the -- it
6 looks like the -- between like the 25th and 27th of
7 every month, give or take if it falls on a holiday or a
8 weekend and then the bill is due 21 days. It's issued
9 out the next day and it's due 21 days from that date.
10 So, generally, the bills are due around the 19th or 20th
11 of the following month.

12 Q. With respect to the account activity statement,
13 this is part of the company's books and records, is it
14 not?

15 A. Yes.

16 Q. It's part of what is maintained for Mr. Chapman's
17 account at 1060 West Hollywood in Chicago?

18 A. Yes.

19 Q. It's kept by ComEd in the ordinary course of its
20 business, is it not?

21 A. Yes.

22 Q. Is there anything else you would like to add as

1 part of your testimony?

2 A. No.

3 MR. GOLDSTEIN: I have nothing else of the
4 witness. Move into evidence ComEd exhibits two and
5 three.

6 JUDGE BAKER: Any objection.

7 MR. CHAPMAN: I object.

8 JUDGE BAKER: What grounds.

9 MR. CHAPMAN: It doesn't have the accurate
10 dates. She said January 11th to --

11 JUDGE BAKER: She said January 21st, 2011.

12 MR. CHAPMAN: Yeah. That's one year. She
13 said they go back two years. So she's only given a year
14 of -- basically this is all they're showing me is one
15 year.

16 MR. GOLDSTEIN: 2011 and 2012 are two years,
17 Judge.

18 MR. CHAPMAN: 2011 to 2012 is two years?

19 MR. GOLDSTEIN: 2011 and 2012 are 24 months,
20 two years.

21 JUDGE BAKER: You were starting right here,
22 Mr. Chapman, 1-21-11 and then it goes through 12-27-12,

1 that's two years. It's actually -- I mean technically
2 it's shy by 20-some days, but it's two years.

3 MR. CHAPMAN: Okay.

4 JUDGE BAKER: Even if it weren't, quite
5 frankly, that wouldn't be grounds for me not let it in.

6 MR. CHAPMAN: Yeah. The problem I have is
7 this is specifically accurately to exclude most of the
8 problems that we encountered with ComEd. They have no
9 accountability for and that could -- if she can go back
10 two years, surely she has accurate records. There is
11 kind of ironically, she's completely oblivious to the
12 things that have transpired. You have clear meter
13 readings --

14 JUDGE BAKER: These are her records -- this
15 is your account history and it's kept as standard
16 protocol for the company so I'm going to allow it in.

17 So let the record reflect that staff exhibit
18 three is moved into the record and as well -- do you
19 have an objection to staff Exhibit 2?

20 MR. CHAPMAN: I have an objection to it,
21 because it doesn't give the accuracy of what transpired
22 on the dates that it transpired. Basically they moved

1 forward and tried to say that everything is just fine
2 and we know that it isn't.

3 JUDGE BAKER: This is a meter reading
4 history. I am going to allow it in. Staff exact two is
5 entered into the record --

6 MR. GOLDSTEIN: ComEd Exhibit 2.

7 JUDGE BAKER: ComEd, excuse me. Thank you,
8 counsel. For the record it is -- staff Exhibit 2 is
9 just a meter reading his chronicling from November 26th,
10 2012 through March 31st, 2009. ComEd Exhibit 3 is a
11 payment history.

12 MR. CHAPMAN: But our complaint goes back
13 past their date.

14 JUDGE BAKER: I'm just putting it on the
15 record what it is, it's just -- it's numbers, it's a
16 payment history.

17 I have a question for you. It appears that
18 he did enter into a payment arrangement in 2011?

19 THE WITNESS: Correct.

20 JUDGE BAKER: For I don't know how much, I'm
21 not sure. A hundred and twenty, is that what it was?

22 THE WITNESS: No. The one above it, one

1 thousand fourteen twenty-five.

2 JUDGE BAKER: Right, was his balance.

3 THE WITNESS: Correct. That's the payment
4 plan. That's the amount that he's put on the payment
5 plan.

6 JUDGE BAKER: Then it was going to be --

7 THE WITNESS: Broken down into 12
8 installments of eighty-four fifty-two, plus his current
9 bill for 12 months. So that's where you see on the
10 following month --

11 JUDGE BAKER: Oh, I see the eighty-four
12 fifty-two, okay. So that was November of 2011. Has
13 there been a payment since then?

14 THE WITNESS: No. The last payment I show
15 is 9-12-11.

16 JUDGE BAKER: Okay. Any questions for the
17 witness, Mr. Chapman?

18 MR. CHAPMAN: Yes.

19 CROSS EXAMINATION

20 BY MR. CHAPMAN:

21 Q. Ms. Bullard --

22 A. Uh-huh.

1 Q. You stated that your records go back two years.

2 Is there any particular reason why it doesn't go back to
3 the date of the complaint?

4 A. ComEd's only required to keep two years of
5 history, meter reading history, billing history.

6 Q. You have no billing history from 2010?

7 A. Just from here, 12-28-10 is the last billing.
8 That's as far back as we can go.

9 Q. We do have some pictures of the meter being
10 tagged for October 21st, 2010. We would like to enter
11 that into evidence.

12 MR. GOLDSTEIN: Judge, I'm going to object
13 to that. That's not a question for this witness.

14 JUDGE BAKER: You're going to have an
15 opportunity, when you come back --

16 MR. CHAPMAN: I forgot. You're correct.

17 JUDGE BAKER: Yes. Right now you're just
18 asking her questions based on her testimony.

19 MR. CHAPMAN: Okay.

20 BY MR. CHAPMAN:

21 Q. And again --

22 JUDGE BAKER: Might I add, I don't know if

1 you were attempting to show me a cell phone. You're
2 going to have to print those pictures out, provide a
3 copy for me, provide a copy for counsel. That's how you
4 get evidence entered. I just wanted to let you know.
5 Go ahead.

6 MR. CHAPMAN: Thank you, thank you.

7 BY MR. CHAPMAN:

8 Q. You said you're provided to go back two years.
9 How did you determine what would be the two-year time
10 frame?

11 A. From the date that -- like if you called, it's
12 two years from the date that you're calling, the date of
13 whatever day that you're in the system, it's two years
14 prior to that date.

15 Q. Made in excess of 30 or more calls. How do you
16 pick which one that you're going to start the clock on?

17 A. No. At the time -- if you called me today and
18 asked me how far back I can go, I can go two years back
19 from today's date.

20 Q. From today's date?

21 A. Correct.

22 Q. What happens to your records past two years?

1 A. I'm assuming they are kept but --

2 Q. But you do have a way of retaining records past
3 two years?

4 A. No.

5 Q. You have no way that you are aware that you
6 could --

7 JUDGE BAKER: They're not required to and
8 that's by law, two years. I see where you're going with
9 that, but I'll give you the advantage of telling you
10 right now, by law they're not required to.

11 MR. CHAPMAN: Okay. Whether they have it or
12 not, they don't have to --

13 JUDGE BAKER: They -- you know, I don't know
14 if they've got it or not.

15 MR. CHAPMAN: Because here's the thing. I'm
16 looking at --

17 JUDGE BAKER: It would be incredibly
18 voluminous --

19 MR. CHAPMAN: I'm looking at a date here
20 that actually goes back to -- was it like January 2010.
21 So with that being said, they actually entered it into
22 evidence. At the bottom of it it says January 28, 2010.

1 JUDGE BAKER: Yes.

2 MR. CHAPMAN: It goes through October 27th,
3 2009. This is evidence and I'm requesting because it
4 says that it's -- everything's just smooth, accurate,
5 and this is false evidence. Because we know that that's
6 not what happened based on what --

7 MR. GOLDSTEIN: I don't know what he's
8 referring to, Judge, but it's outside the scope of --

9 MR. CHAPMAN: It's already in evidence so
10 I'm requesting --

11 MR. GOLDSTEIN: There is no evidence --

12 JUDGE BAKER: Wait. We're going to --
13 because I got to -- do you have a question for her?

14 MR. CHAPMAN: That's right, it's the last
15 day she's going to be here.

16 JUDGE BAKER: Let's keep in mind, let's look
17 at what her role is with the company. She's the one
18 looking at your account and the meter reading histories
19 and the account history and the payment history. So
20 based on that, what questions do you have for her?
21 Because you're claiming -- I mean, it's obvious what
22 he's claiming. He's claiming that there was tampering

1 with your meter.

2 MR. CHAPMAN: And they just --

3 JUDGE BAKER: What questions do you have for
4 her based on that? How can she help -- you know, what
5 questions do you feel might help you? Now is your time
6 to ask her those.

7 MR. CHAPMAN: Well. She's only required by
8 law to come in here by what, today's date, and go back
9 two years. I completely disagree with that. It should
10 go back to the date that we actually filed the complaint
11 so we can show accuracy of what we're complaining about.

12 JUDGE BAKER: What are you -- and counsel,
13 he's not an attorney, just give me a second. Are you
14 claiming that the tampering was prior to the two years
15 and then there hasn't been tampering in two years?

16 MR. CHAPMAN: Well, we're trying to pinpoint
17 specifically -- we know the date that the contractors
18 went out, shut down the entire building, had to cut
19 wires, disarm other wires and we couldn't get the
20 cooperation of ComEd. At one point we were able to
21 get --

22 MR. GOLDSTEIN: Is this on the record,

1 Judge? If he's testifying --

2 MR. CHAPMAN: He's out of line. He keeps
3 interrupting me. I know that's his job, but --

4 JUDGE BAKER: I'm giving you leeway, but I
5 can't give you -- you can't just sit here and testify.

6 MR. CHAPMAN: Okay.

7 JUDGE BAKER: So again I'm going to ask you.
8 What questions do you have of this witness? If there
9 was tampering, that's what you're alleging --

10 MR. CHAPMAN: Yes.

11 JUDGE BAKER: What information would you
12 like to go from her regarding the tampering? What
13 questions would you like to ask her regarding the
14 tampering? And certainly there has to be more than just
15 one, that goes back to prior -- to 2010. Surely you
16 have perhaps another question for her? Now is your time
17 to do that.

18 MR. CHAPMAN: Well, let me explain what
19 threw me off, the fact that they --

20 JUDGE BAKER: Don't testify.

21 MR. CHAPMAN: Okay, okay. Based on what she
22 said, she can't account for anything past whatever date.

1 JUDGE BAKER: Perhaps you have a question
2 for her regarding the tampering during these dates?

3 BY MR. CHAPMAN:

4 Q. Do you have any records of any tampering,
5 although it says here everything was just fine, do you
6 have any record whatsoever of tampering with the meters,
7 a load being off at unit 305?

8 A. No.

9 Q. Do you have any records of any tampering at 1060
10 West Hollywood?

11 A. No. Based on the meter reading history, there's
12 no indication. The bills are all in line month to
13 month, seasonal usage would be higher for the summer. I
14 don't see anything that would indicate showing extra
15 usage regarding tampering on the meter.

16 Q. See, the problem we're having --

17 JUDGE BAKER: Question, question. No ask --
18 put it in the form of a question to her.

19 BY MR. CHAPMAN:

20 Q. If you have complete notice that there's no
21 tampering, how would you ever know if there were
22 tampering?

1 A. Based on the field reports, like the service
2 order requests. That would be on Exhibit 1.

3 Q. You don't have it. This just goes back to August
4 3rd of this year?

5 A. Right. That's the technician's report, that's
6 when we found out for -- a meter test was requested. So
7 the technician, we send them out there and this is their
8 report. They found no evidence of any tampering.

9 Q. You're saying before August 3rd, you was
10 completely oblivious to any tampering?

11 A. There was no note on the account stating any
12 tampering on the meter.

13 Q. This is your direct department, so you would have
14 the flexibility to see if there was anything?

15 A. Yes.

16 Q. Then how could it not be there?

17 MR. GOLDSTEIN: It didn't exist.

18 JUDGE BAKER: Counsel.

19 MR. GOLDSTEIN: Can we go forward with the
20 questions --

21 JUDGE BAKER: He's attempting to ask his
22 questions.

1 MR. CHAPMAN: But, your Honor, it does exist
2 and they know that it does.

3 JUDGE BAKER: Okay. Remember, questions.
4 You're not testifying -- questions.

5 BY MR. CHAPMAN:

6 Q. Based on your testimony, you know nothing about
7 anything past which date?

8 A. There's nothing -- there was nothing on any of
9 the notations on the account stating anything regarding
10 any tampering.

11 Q. How would something be put on the account?

12 A. A customer could call and say they think that
13 there could be tampering on the account which would lead
14 to the investigation. The CSR customer service rep
15 would note there on there, on the service request, that
16 would be on the document on the account. There was
17 nothing prior to August 8th or August 6th, 2012 stating
18 any calls regarding tampering.

19 Q. If you only have August 3rd that Mr. O'Brian came
20 out, in the last two years do you have any other
21 documentation of any other support that -- do you have
22 any records of anyone ever coming to see that building

1 in the last two years?

2 MR. GOLDSTEIN: I'm going to object. That's
3 so generally. The meter reader obviously came to the
4 bidding, there was regular readings of the meter, Mr.
5 Chapman.

6 MR. CHAPMAN: I'm asking her.

7 JUDGE BAKER: The question was if anybody
8 else has been to the building from ComEd in two years?

9 MR. CHAPMAN: Correct.

10 THE WITNESS: The meter reader because it
11 shows right here, regular readings on those dates. So
12 the meter reader would be out there every month
13 obtaining readings.

14 BY MR. CHAPMAN:

15 Q. What is the actual first date that you were made
16 aware of there was a complaint concerning unit 305?

17 A. The date that they came through the bureau, the
18 Illinois Commerce Commission or whatever bureau you went
19 with would be the first day that I would get that.

20 Q. Do you have that actual date?

21 A. That I do not.

22 Q. Because if you did have that date, you would know

1 specifically when we filed the report and you would know
2 that you should have a reading for that time frame?

3 MR. GOLDSTEIN: I'm going to object to this
4 again, Judge. It's not a question --

5 MR. CHAPMAN: No more questions for her.

6 JUDGE BAKER: All right.

7 MR. GOLDSTEIN: I have just one question on
8 redirect.

9 JUDGE BAKER: Sure. Redirect.

10 REDIRECT EXAMINATION

11 BY MR. GOLDSTEIN:

12 Q. Ms. Bullard, you did not review all of the other
13 electric accounts a 1060 West Hollywood in order to
14 prepare yourself for this hearing today, did you?

15 A. No.

16 MR. GOLDSTEIN: I have nothing else.

17 JUDGE BAKER: The witness is excused.

18 MR. GOLDSTEIN: Thank you.

19 JUDGE BAKER: So we're going to continue
20 this for -- we're a going to continue it -- we're going
21 to agree on a date and at that time the complainant Mr.
22 Chapman will have an opportunity to present his case.

1 We're also going to get a discovery timeline in place.

2 So I unfortunately do not have a 2013 calendar on me
3 right now. Does anybody else, other than my phone --

4 MR. GOLDSTEIN: I have a calendar.

5 JUDGE BAKER: Because I know the deadline is
6 approaching on this. So we need to do something
7 relatively quick. I'm only going to give -- what's your
8 schedule, counsel?

9 MR. GOLDSTEIN: I have extended vacation --

10 JUDGE BAKER: Extended?

11 MR. GOLDSTEIN: I'll be back the week of
12 February 11th.

13 JUDGE BAKER: Oh, you're not kidding. Okay,
14 then it's going to have to be the week of February 11th,
15 like February 11 perhaps. Because --

16 MR. GOLDSTEIN: That's fine, Judge.

17 JUDGE BAKER: Let me look. Let me make sure
18 -- so February 11 is a Monday. It's going to have to be
19 that date because we need a turnaround time for the
20 order.

21 MR. CHAPMAN: Is it possible to make that
22 Tuesday? Monday is a day off.

1 JUDGE BAKER: Oh, is that -- is it a holiday
2 Monday?
3 MR. CHAPMAN: No. That's a day that I'm
4 required to be --
5 JUDGE BAKER: Okay. Tuesday is fine with
6 me.
7 MR. GOLDSTEIN: I think that's the holiday.
8 JUDGE BAKER: Is that the holiday?
9 MR. GOLDSTEIN: That's the holiday.
10 JUDGE BAKER: All right, we'll make it
11 Wednesday.
12 MR. GOLDSTEIN: Wednesday I've got --
13 JUDGE BAKER: Come on, guys.
14 MR. GOLDSTEIN: 1:30 Wednesday or Friday --
15 JUDGE BAKER: No. Let's do 1:30 Wednesday.
16 MR. GOLDSTEIN: Okay.
17 JUDGE BAKER: So what date is that, that's
18 the 13th. Okay.
19 MR. GOLDSTEIN: Judge, I would ask that Mr.
20 Chapman provide me with the data requests to the company
21 sometime next week because I'll be gone after that.
22 JUDGE BAKER: Okay. So we're going to get

1 all that done. You need to provide him, him being
2 counsel, anything that you want, any documents you want
3 from him, anything. You need to request from him in
4 writing. It doesn't -- it's just similar to what you
5 wrote, but it's going to be specific, I want this, I
6 want that. I want all of your evidence. You know,
7 whatever it is, but it's got to be -- they have to know
8 what you want. Today is the 11th. Send something to
9 him in writing, even if it's an e-mail, exchange --

10 MR. GOLDSTEIN: I don't care, fax, e-mail.

11 JUDGE BAKER: Do you have his fax? Do you
12 have his e-mail?

13 MR. CHAPMAN: No, I don't.

14 MR. GOLDSTEIN: I'll provide all that.

15 JUDGE BAKER: Okay, counsel will provide
16 that. So today is -- again today's the 11th. You
17 should be -- say next Wednesday it's got to be in by,
18 you know, that's five days. I mean, certainly for a
19 request that's not unreasonable, right?

20 MR. GOLDSTEIN: Yes.

21 JUDGE BAKER: I don't hear lots of yeses?

22 MR. GOLDSTEIN: Yes.

1 JUDGE BAKER: So the 16th. So you're going
2 to provide him in writing, whether it's fax, an e-mail,
3 he's going to give you all that information, what you're
4 looking for to get from him by next Wednesday. You
5 already have a data request from counsel. So all of it
6 has to be in, meaning you have to give him what he's
7 asked for and he's got to give you what you ask for
8 by -- what's a reasonable date? If the rest of the
9 hearing is going to be the 13th, shall we say 28th?

10 MR. GOLDSTEIN: That's fine, Judge.

11 JUDGE BAKER: Does that work?

12 MR. CHAPMAN: What's happening on the 28th?

13 JUDGE BAKER: That you're going to have to
14 give him what he's asked for and he's got to give you
15 what you're going to ask for by the 28th of January.

16 MR. GOLDSTEIN: I would ask that Mr. Chapman
17 provide a copy of what he's going to give me also to
18 Mr. Buechler, because I will not be around on the 28th.

19 JUDGE BAKER: Oh, okay. So you're going
20 to you -- you just want your copy given to Ms. Buechler?

21 MR. GOLDSTEIN: Correct, either way.

22 JUDGE BAKER: So instead of getting --

1 because apparently he's on vacation.

2 MR. GOLDSTEIN: A copy to Ms. Buechler,
3 whatever way it works.

4 JUDGE BAKER: Do you understand, you're
5 going to give him one because he's not going to be here.
6 You're going to give her one too, because she is going
7 to be here. And counsel's going to give you his
8 information for the data requests, but also where you
9 should send what he's requested of you, where you should
10 send it to counsel as well as Ms. Buechler.

11 MR. GOLDSTEIN: We have got that
12 information.

13 JUDGE BAKER: Does that cover everything?

14 MR. GOLDSTEIN: I believe so.

15 JUDGE BAKER: We are going to continue this
16 matter until February 13th at 1:30, at which time
17 Mr. Chapman will present his case.

18 MR. GOLDSTEIN: Thank you, Judge.

19 (The hearing adjourned
20 at 12:10 o'clock p.m.)

21

22